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EXAMINER

TRAN A, PHI DIEU N

ART UNIT PAPER NUMBER

3637

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/874,965

Applicant(s)

EMEK, MORDECHAY

Examiner

Phi D A

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-24 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claim 1 recites the limitation "said first frame" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.
2. Claim 3 recites the limitation "the arm portions" in line 5. There is insufficient antecedent basis for this limitation in the claim.
3. Claim 5 recites the limitation "the second arms" in line 4. There is insufficient antecedent basis for this limitation in the claim.
4. Claims 6-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 6 lines 2-4 describes the window system as generating forces and is thus indefinite. It is clear that the window system acts as a reactionary structure to forces formed by shock wave. The claim needs to clearly set forth the limitations.

5. Claim 12 recites the limitation "the adhesive material" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.
6. Claims 16, 21 provide for the use of the window system, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

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Claim 16 is rejected under 35 U.S.C. 101 because the claimed recitation of a use, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

7. Claims 21-22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 line 1 “a window system accordingly to claim 21” is indefinite. A claim cannot depend upon itself. Also, claim 20 is to a framework, the claim 21 thus needs to reflect the scope set forth by the preamble of claim 20. The claim is examined as best understood to be depended upon claim 20.

Claim 22 has the same problem as above.

8. Claims 1-24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structural limitations of first frame, second frame, fixing members, arm portions, securing means, leg portions, flange, protrusion, fixation screw, adhesive, and gaskets of window system or framework are positively claimed structures. Thus, their relationship must be claimed in combination to clearly set forth the combination. For example, claim 3 line 5 “for engagement with the arm portions” is indefinite. Should be it be “engaging with the arm portions”? claim 9

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line 2 “ fixation screw adapted for bearing against a ...arm” is indefinite. Should it be “ fixation screw bearing against a ...arm”? Other claims have similar problems.

The claims are examined as best understood as having the structures positively connected together in combination when the confusion like the above happens.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

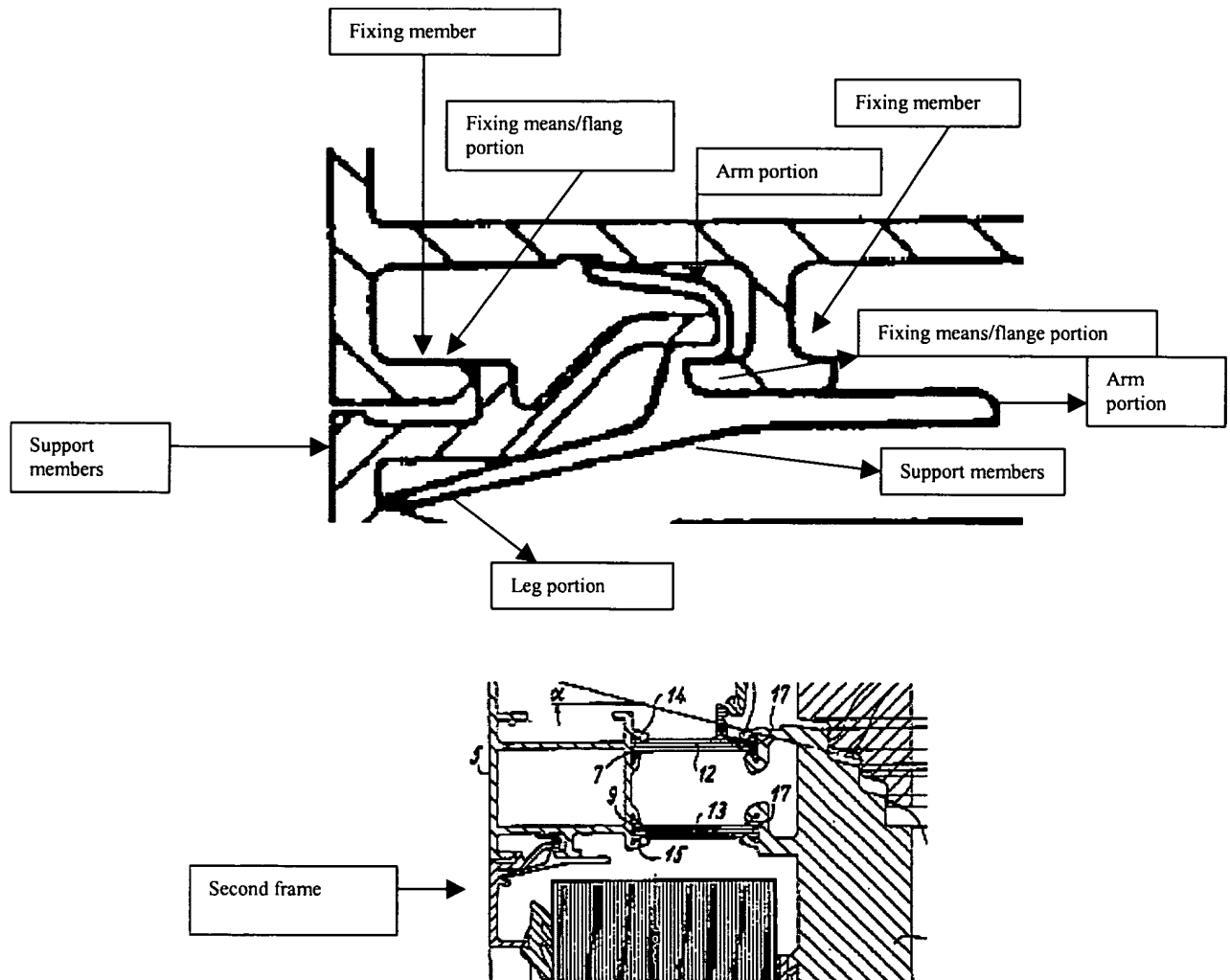
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1-2, 10, 14, 18-19, 22 are rejected under 35 U.S.C. 102(b) as being anticipated by Habicht et al (4879957).

Habicht et al (figure 1, below) shows a reinforced window system having a first frame (comprise of 20, 12, 13, 5) fixable to the opening in a wall, the first frame being provided with a plurality of fixing members distributed on an inside perimeter of the first frame, a second frame which is separate from the first frame and is removably installable therein, the second frame carries a reinforced window pane (1, how to reinforce is not claim yet) secured within the second frame, the second frame being provided with a plurality of support members distributed on an outside perimeter of the second frame to face the fixing member of the first frame and to support the second frame when the support members being in engagement with the fixing members, at least some of the fixing members being provided with a securing means for securing position of the second frame within the first frame, at least some of the support members being removably

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attached to the outside perimeter of the second frame, the support members being configured as bifurcated members having a leg portion attachable to the second frame and an arm portion, extending towards the fixing members of the first frame and engageable therewith, the arm portion comprising a first and second arm, the support members being fixed at their locations



to the second frame, the window pane (1) sealingly bears against the first frame, a width dimension defines the support members and the adjacent support members provided with different width dimension, the system being a fool-proof system whereby the fixing members of the first frame and the corresponding support members of the second frame being distributed

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along respective inside and outside perimeter of the second frame and the first frame such that the fixing members extend opposite corresponding support members only at a correct mounting of the second frame within a first frame.

11. Claims 20-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Habicht et al (4879957).

Habicht et al (figure 1, above) shows framework having a first frame (comprise of 20, 12, 13, 5) fixable to the opening in a wall, the first frame being provided with a plurality of fixing members distributed on an inside perimeter of the first frame, a second frame which is separate from the first frame and is removably installable therein, the second frame carries a reinforced window pane (1, how to reinforce is not claim yet) secured within the second frame, the second frame being provided with a plurality of support members distributed on an outside perimeter of the second frame to face the fixing member of the first frame and to support the second frame by engaging with the fixing members, at least some of the fixing members being provided with a securing means for securing position of the second frame within the first frame, the support members being formed with arm portions extending towards corresponding fixing members (see above) of the first frame, the arm portions being formed with a first and second arm, the fixing members being formed with flange portions (see note above) and at least some of the fixing members being formed with the flange portions configured as hook-like portions (the shape of hook-like is not yet defined, and thus the 90° of the flange reads on the limitations) adapted for engagement with corresponding first arms of the support members, at least some of the frame portions of the fixing members constitute elongated protrusions formed on the inner perimeter of

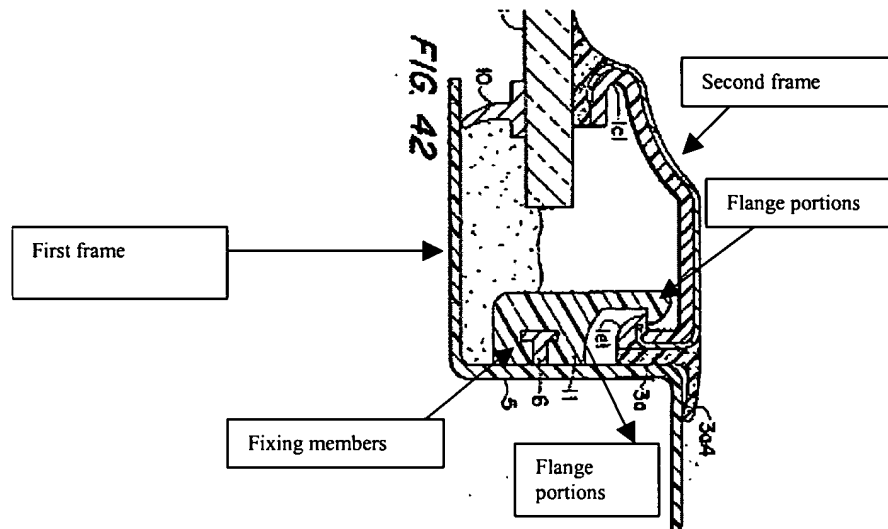
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the first frame, the protrusion formed on the inner perimeter of the first frame and the protrusion being directed towards corresponding second arms of the support members.

12. Claims 1, 3-8, 11, 13, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Katoh (4248933).

Katoh (figure 42) shows a reinforced window system having a first frame (5) fixable to an opening, the first frame is provided with a plurality of fixing members (11) distributed on an inside perimeter of the first frame, a second frame (see figure below) which is separate from the first frame and is removably installable therein, the second frame carries a reinforced window pane (8) secured within the second frame, the second frame is provided with a plurality of support members (1e1, 3a, 3a4) distributed on an outside perimeter of the second frame to face the fixing members of the first frame and to support the second frame when the support members are in engagement with the fixing members, at least some of the fixing members being provided with a securing means (6) for securing position of the second frame within the first frame, some of the fixing members being removably attached to the inside perimeter of the first frame (means 6 allows removal) the fixing members being provided with flange portions (see below) for engagement with the arm portions (3a, 1e1) of the support members, some of the flange portions of the fixing members being configured as hook-like portions (the top flange portion) adapted for





engagement with the corresponding first arms (1e1) of the support members, some of the flange portions of the fixing members constitute elongated protrusions (bottom flange portion, see above) formed on the inside perimeter of the first frame and the protrusion is directed towards the second arm (3a) of the support members, the second frame member inherently would engage the corresponding flange portions of the fixing members and leans in a radial inward direction when forced by a shock wave and the arm portions of the support members would inherently dissipate the energy of a shock wave striking on the window pane by leaning back and then shearing (the support members would first hook, then yield, and then shear), the fixing members being adjustable and removable (due to the piece 6 which allows the moving and adjusting of the fixing members 11), the window pane being fixed to the second frame by an adhesive (3b, col 2 lines 13-16, col 4 lines 4-7), the window pane (8) is fixed to the second frame by a mechanical glazing system, fitted with resilient gaskets (3b, 10) at both faces of the window frame.

13. Claims 1, 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Koike et al (5758459).

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Koike et al (figure 2) shows a reinforced window system having a first frame (21) fixable to the opening, the first frame being provided with a plurality of fixing members (the hooks at the bottom of the frame 21) distributed on an inside perimeter of the first frame, a second frame (2) which is separate from the first frame and is removably installable therein, the second frame carries a reinforced window pane (7) secured within the second frame, the second frame provided with a plurality of support members (the hooks which connects to the first frame distributed on an outside perimeter of the second frame to face the fixing members of the first frame and to support the second frame when the support members are in engagement with the fixing members, at least some of the fixing members being provided with a securing means for securing position of the second frame within the first frame, a concealing panel (8) removably secured on the second frame (2).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habicht et al in view of Koike et al (5758459).

Habicht et al shows all the claimed limitations except for a resilient sealing member being fitted between an outside face of the windowpane and the first frame.

Habicht shows a sealing member being fitted between an outside face of the windowpane and the first frame.

Koike et al shows a resilient sealing member (70) being fitted between an outside face of the window pane (7) and the first frame (21).

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Habicht et al to show a resilient sealing member being fitted between an outside face of the window pane and the first frame because a resilient sealing member would ensure the pane interior is protected from the elements due to the resilient property of the sealing member for constantly pressing against the pane surface.

16. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Habicht et al in view of Saelzer (4625659).

Habicht et al shows all the claimed limitations except for the system being designed to suit for retro-fitting behind an existing window system installed in the wall opening.

Saelzer (figure 1) shows a window system designed to suit for retro-fitting behind an existing window system installed in the wall opening.

It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Habicht et al to show the system being designed to suit for retro-fitting behind an existing window system installed in the wall opening because it would provide double protection to the opening against exterior forces as taught by Saelzer.

17. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Katoh (4248933) in view of Pohl et al (6455819).

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Katoh shows all the claimed limitations except for the adhesive material being a low-module silicone glue.

Pohl et al discloses silicone glue forming a joint for glass structure (figure 14a-14c).

It would have been obvious to one having ordinary skill in the art at the time of the invention to show Katoh's adhesive being a low module silicone glue because low module silicone would allow for the connecting of a glass structure to another structure as taught by Pohl et al.

***Allowable Subject Matter***

18. Claim 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, second paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

19. The following is a statement of reasons for the indication of allowable subject matter: prior art does not show the securing means comprising a fixation screw adapted for bearing against a corresponding arm portion of the support member in combination with other claimed limitations.

***Response to Arguments***

20. Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

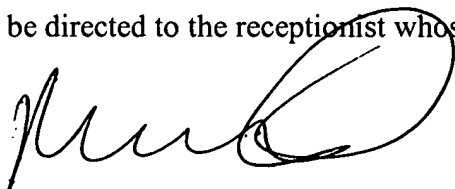
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art shows different window structures.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phi D A whose telephone number is 703-306-9136. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 703-308-2486. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

A handwritten signature in black ink, appearing to be 'Phi Dieu Tran A', written over a horizontal line.

Phi Dieu Tran A  
July 5, 2003